6. The outlines of the law courses actually given in collegiate schools of business are beginning to show a tendency to throw over the old law-school nomenclature. An approximation to some outline based on business facts is apparent. Instead of contracts, bills and notes, and corporations, we find types of business relations grouped together. The tendency of most of the schools at present seems to be toward three general courses in business law: the legal relation of buyer and seller, the legal relation of debtor and creditor, and the law of business organization.

7. Perhaps the most important developments, however, must be sought, for the present, in the actual classrooms. Even if the teacher is primarily interested and learned in the legal problem, it is the business problem that the inquisitive student forces him to discern.

There is one respect in which the courses offered the two classes of students should not differ. In this pioneer stage of the college of business, however, I am afraid there are some instances in which this is the only respect wherein they do differ. Within its respective field each calls for thorough scholarship. A business man's law course should not be simply a superficial law course. If it is infinitely smaller than the law-school curriculum in some respects, it should be larger in other respects. We must get at the law in the cases, and then dig deeper for the business experience embodied in them—and why not? Are not the repositories of our court proceedings, though heretofore used for a single narrow purpose, among the most important records of the development of our entire civilization?

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DISCUSSION BY L. F. SCHAUB

I find myself in such complete agreement with the views expressed in the admirable paper by Mr. Isaacs that the only alternative to a reiteration of the points made in the paper is to make my remarks supplementary in character. With this in view, I shall discuss three phases of the subject: First, the value of law instruction to men planning for a business career; second, the aim of such instruction; third, the method of the instruction. In reality the three divisions lock, inasmuch as one's view of what should be the aim of the instruc-

tion really depends upon one's opinion of the benefit reasonably to be expected, and the choice of methods of instruction is plainly determined by one's theories regarding the aim of instruction.

As a preliminary consideration, let us frankly recognize that anything like a complete presentation of American business law within the time available for the subject in the curriculum of a business school is an impossible achievement. Even in the three years' course of instruction offered by law schools comparatively little attention can be devoted to the innumerable diversities that exist in the rules of the several states, and the labyrinths of qualifications and exceptions which circumscribe so many of the general doctrines. To obtain a picture of the law approximating completeness one must resort to exhaustive treatises on special subjects or to the all-embracing encyclopedias which are intended to meet the needs of practicing lawyers. All that can reasonably be expected of instruction in the law for college students whose chief interest lies in the field of business, is a clear, sound, and fairly adequate study of certain of the main rules of law which are of importance n business, together with an indication of the extent to which these rules are in force throughout the entire country.

Now the value of this limited amount of instruction in the law as a part of a college training for business may be conveniently discussed under two heads: the benefits of a general nature, and the benefits more immediately and directly realizable in the conduct of business. With respect to the benefits of a more general nature it requires no argument to show that a proper training in the law cultivates and develops certain of the qualities which are recognized as a necessary part of the equipment of a business man. The ability to analyze, to discriminate, and to discern and state clearly and concisely the facts of a complicated business situation, is needed by the business man as much as by the lawyer, and so impressive is the usefulness of a legal training in the development of these qualities that many hundreds of men have taken a law-school course as a preparation for business and not for the practice of the law.

Again, it is scarcely necessary to state that a young man who is enabled to see the large relations of his own special work finds his work more interesting and more worth while than it would be if his business horizon were contracted to the limits of his immediate position. A really intelligent business man seeks a knowledge of the fundamental principles of law applicable to business not entirely because of its utilitarian value; he seeks it among other reasons because he wishes to be qualified to observe the interaction of law and business on each other, and to compare the requirements of the law with the other external standards by which his conduct is regulated, such as general custom, sound business policy, and the prevailing ideals of honorable business men.

Turning next to the question, what immediate and direct use a business man can make of his knowledge of business law, I wish at the outset to deprecate the overstatements and exaggerations on this point which have been given wide circulation. "Every man his lawyer" is the slogan of either ignorance

or deception. Among the informed it is known that the average law-school graduate after his three years of full-time study of the law requires a certain amount of further learning in the law before qualifying as a safe counselor, and more than one litigant has grumbled because this additional education of the young lawyer is secured at his expense. Another notion somewhat less extreme is even more prevalent. It is assumed by many that a knowledge of the law will arm its possessor with certain "points of cunning" as Bacon calls them, and thereby enable him to outwit the other side to a business negotiation. Books like Arthur Train's *The Confessions of Artemas Quibble* purporting to give an account of the divers wiles, tricks, sophistries, technicalities, and sundry artifices of the class of lawyers commonly called "shysters" have helped to give currency to this notion.

It is undeniable that requirements of form for expressing certain agreements in order to make them legally enforceable, such as the Statute of Frauds, do enable an unscrupulous person to keep from making an undertaking binding upon himself, though permitting him to tie the other party if the latter's promise complies with the prescribed formality. In the same way, one studious to overreach can exploit the possibilities of the parol evidence rule or the restrictions of the tort action for deceit in a way which operates unjustly on a person ignorant of these legal rules. Of course no right-minded man studies the law to find out how far he can indulge in sharp practice with immunity from legal consequences to himself. As regards the cultivation of legitimate skill in negotiation, I do not see that the law, or any other science for that matter, can be of much direct help. To meet a concrete situation is an art; it requires insight and tact and knowledge of human nature. No science transforms itself automatically into an art; it can only fix the limits within which conduct must be confined. The particular positive action that should in any concrete situation be pursued must be left to the initiative and resourcefulness of the individuals concerned.

Still there are real benefits of a directly useful kind which an acquaintance with the law brings with it. First of all, one who has a thorough grounding in even a small sector of the law is so strongly impressed with the complexities of the law that it does not require hard experience to teach him how desirable it is, in every business transaction that is at all unfamiliar to him, to seek capable legal advice before, rather than after, the event. Moreover, he is enabled, whenever it may be necessary, to work with lawyers intelligently. This is no small advantage to a business executive. Such a person need not be a specialist in any of the departments of his business, but he must know enough about all of the factors in his business to work intelligently with his various department heads and to arrive at reasonably correct decisions in matters of policy affecting the business as a whole. He should also know enough of the law in order to choose his lawyer wisely. Finally, a knowledge of the fundamental principles governing the formation and expression of agreements enables him to avoid numerous pitfalls, some of which I have pre-

viously mentioned. Not only may he make this negative use of legal principles; he will learn what obligations the law annexes as an incident to the common consensual transactions, and he knows therefore in what respects it may be desirable for him to protect himself by an express stipulation at variance with legal consequences that would attach to the transaction in the absence of an expressed intention to the contrary. In this way he is stimulated to habits of close analysis and of precision in statement and he develops an instinct to anticipate and provide against contingencies.

If the above-described benefits can fairly be expected, the instruction should of course aim at attaining all of these benefits. But the real question as to the aim of instruction is one of the comparative evaluation of these various benefits. The conclusion I have arrived at is that the teacher of law in a business school should seek to select and give really thorough instruction in only those legal rules which are directly useful for protection in bargaining. So limited is the time for legal study in a business curriculum that only a pretty rigid policy of concentrated instruction on these topics can measurably realize expectations entertained, and rightly entertained, that what is learned should have direct application to and usefulness in the everyday business dealings. Moreover, it seems to me that such a policy of thoroughgoing concentration on comparatively few topics is essential if, within the limits of time available, more general benefits are to result from a study of business law.

Thirdly and finally, what should be the method of instruction? Legal no less than ethical principles for the guidance of human action have to be applied to an infinite variety of facts. The process of applying a general principle to a given set of facts is often, of course, an operation of considerable difficulty. Since students can develop this power only through a great amount of practice they should be constantly encouraged to suggest and to participate in the discussion of both actual and hypothetical cases. Personally I believe it to be advantageous to prescribe the study of a few decided cases as at least part of the student's preparation for the class exercise. The well-known case-books prepared for the use of law students simplify the problem of making readily available to students such of the leading cases as may form part of their assigned reading. It is perhaps self-evident that it is necessary to eliminate cases which are of merely historical interest in the development of a doctrine of the law, and that it is desirable, whenever possible, to select cases in which the facts as well as the legal rules are of interest from the standpoint of business. I am hopeful that at some time in the near future there may appear, for the use of students whose principal interest is in the field of business, a case-book constructed on markedly different lines from those of the conventional compilations used in law schools. I should like, for example, to see such a book featured by a great number of problems calling for the application of general principles to a large variety of situations arising in business negotiations.

Discussion of cases and problems should not, however, constitute the whole scheme of instruction used in the classroom. They should, it is true, be the

most important part of the method of instruction, for they are the most appropriate method for learning about protection in bargaining, including such topics as these: under what circumstances the law insists on a compliance with prescribed formalities in order to give effect to the intention of the parties to an agreement, to what extent it lays additional obligations upon them irrespective of agreement, and in what respect it imposes limitations on the business man's freedom of action. But to leave a fairly clear picture of the whole of the law in the student's mind he should also be informed about other matters. For instance, he should be intelligent about the nature and the sources of the law, and various other introductory topics treated of in a text like Woodruff's *Introduction to the Law*. For this purpose not only readings in such a textbook but also old-fashioned lectures have their proper place. Moreover, it seems to me that there are other matters in which a student should receive instruction by the limited use of the lecture method rather than the slower case-system. I have in mind situations in which a slip of some kind has been made by the plaintiff. Such a situation calls for the help of a lawyer. The question what can be done about it is then in his hands. Still a general knowledge of even such rules can be given the business student by means of the lecture system. Examples of this kind are the exceptions to the application of the Statute of Frauds by courts of equity, the doctrines covering the reformation of instruments, the rules applicable to the rescission of transactions, the application and limitations of the principle which prevents a defendant from unjustly enriching himself at the expense of the plaintiff.

The extent to which an instructor in the subject may properly focus attention upon the local doctrines will obviously depend, among other things, upon the geographical distribution of the students in his particular school. It will hardly be questioned, however, that even the type of instruction which features the local law of some particular jurisdiction should concern itself primarily with the general underlying principles of the subject. Failure to do this puts an unwarranted premium on mechanical memory.

Our own period, as is well known, is marked by an unusual amount of popular participation in lawmaking. The enactments of legislative bodies are, however, so overwhelming in volume and so lacking in uniformity that only a few of the most noteworthy can receive consideration in a law course. The conditions existing in each particular school will of course determine the degree of stress which may suitably be laid by instructors upon these local peculiarities and aberrations from the "judge-made law" which are the result of legislation. It seems to me, however, that the instructor might wisely at least give a list of the more common subjects of legislation of particular interest to business men. The student should be made familiar with the work and accomplishments of the National Conference of Commissioners on Uniform State Laws. It is to be hoped that the project of publishing a so-called textbook on these uniform laws may be taken up again by this body. The book, if and when it appears, should surely be included in the business man's library.

Books on legal forms should be accessible to students, as well as certain of the standard forms of agreements which are now in common use in many lines of business.

Suggestions should be given the students for continuing the study of law after embarking upon a business career. They should be recommended to keep in touch with the current output of the United States Government Printing Office. Many of its publications deal more or less fully with legal matters of interest to business men, especially with contemporary state legislation on labor matters and the like. So also they should be told how useful it is to the business man to avail himself of the publications of such bodies as Bureaus of Legislative Information which now exist in a number of states, and also the reports issued by organizations such as the American Association for Labor Legislation. Indeed, it may not be too much to expect that business men, academically trained for their calling, will in increasing numbers feel convinced that it is really profitable for them to read not merely their trade papers and a general magazine of business, but also a law journal of the better class.

DISCUSSION BY W. H. SPENCER

There has always been, to a greater or less extent, a feeling that the study of law should constitute a part of business education. Earlier, students were sent into law schools to pursue the study of certain designated subjects, or professors of law and lawyers were called in to deliver lectures on "business" or "commercial law." Later, schools of business began to add to their faculties instructors in law. At the present time, I believe that there is no school of business which does not have its own instructing staff and its own courses in law.

Without going into the historical details of this development, certain general comments on the teaching of law in collegiate schools of business can, I think, be safely made. (1) The persistency with which law has recurred in business-school curricula is strong evidence of the need of it as a part of business training. (2) The courses of study in law for schools of business have been, and still are, typically abbreviated and diluted law-school courses. (3) The presentation of the subject-matter has been, and still is, a more or less haphazard and mechanical performance. (4) The courses offered have not been worked out in terms of a coherent, logical program of business education.

In view of these statements it would seem that the time has come for a reconsideration and restatement of the place of law in collegiate schools of business. Do we have real, worth-while objectives toward which we are working, which will justify the retention of law in a business curriculum? Are we sure that we have chosen the most appropriate content for the attainment of our objectives? Is our content arranged most advantageously for reaching these objectives?

Before we can answer these questions it is necessary to ask and answer a still broader and more fundamental question: What, after all, are the